

REMARKS

Claims 1-18 were examined. No claims are amended. Claims 1-18 remain in the Application.

The Patent Office rejects claims 1-18 under 35 U.S.C. §103(a) as obvious over U.S. Patent No. 4,474,576 of Gobby (Gobby) in view of U.S. Patent No. 6,273,877 of West et al. (West). Gobby discloses an apparatus for artificially inseminating humans or other animals. The apparatus includes a locating tube that is adapted to be inserted into a vagina and one end of the tube located against the cervix of the uterus around the cervical canal. A delivery member is adapted to the pass along the locating tube but into the uterus for delivery of semen into the uterus.

In the one example in Gobby relating to inseminating a ewe, a delivery member is passed along locating tube 11 and an offset end of the delivery member presented to the entry of the cervical canal.

The user must then manipulate the delivery member to lift at least one of a series of flaps at the entry of the cervical canal so that entry to the canal may be gained; it is for this reason that the end of the delivery member is offset. The user is able to lift the flaps by pivoting the delivery member about the fulcrum formed by the boss, as described beforehand. The cervical canal is provided with a series of inner cervical folds around which the leading end of the delivery tube must be maneuvered as it is advanced along the canal. It is because the user is able to hold the uterus of the ewe steady with the locating tube that he is able to lift the flaps of the entry to the cervical canal and maneuver the delivery member around the inner cervical folds as it is advanced along the cervical canal. The delivery member ultimately arrives at the uterine cavity. The user then causes a charge of semen to be discharged from member and deposited in the uterine cavity.

Col. 4, lines 10-28.

West describes an epidural needle for inserting a catheter into an epidural space, not a needle catheter. Needle 12 includes primary bevel 32 aligned to longitudinal axis 24 at an angle α of 10°. See col. 4, lines 4-7. Epidural needle 12 also includes secondary bevel 36 defining a

plane aligned at an angle β between 60°-80° with respect to longitudinal axis 24. See col. 4, lines 22-25.

The existence of secondary bevel 36 and the angular alignment of 60°-80° achieves several significant advantages. First, secondary bevel 36 provides an adequate degree of blunting to prevent inadvertent damage to the dura mater. Second, the alignment of 60°-80° achieves substantially greater sharpness than the 80°-100° secondary bevel specified by the prior art. The greater sharpness facilitates the initial penetration of the skin and the penetration of the ligamentum flavum without the local trauma that would otherwise be caused by penetration with a blunt instrument and without the significant force that could propel an epidural needle into the dura matter after the ligamentum flavum has been penetrated.

Col. 4, lines 40-52.

The Patent Office believes that it would be obvious to modify the distal portion of the delivery member of Gobby to include an end that is beveled as disclosed by West for purposes of facilitating the delivery process. However, to modify Gobby to include the beveled end of West would construct a delivery member having "greater sharpness", which would imply a motivation for penetration of the tissue of the flaps of the cervical canal or the uterus. Gobby does not seek to penetrate tissue of any type. Gobby seeks to deliver a charge of semen into a uterine cavity not, for example, to penetrate the tissue of the uterine cavity and then deliver the semen. The delivery member of Gobby includes a fulcrum and boss for the purpose as described in Gobby and cited above to allow a user to lift the flaps of the cervical canal. Providing Gobby with a sharp end to lift the flaps would be incompatible with the use to which Gobby describes.

The incompatibility of Gobby and West is further evident in the nature of the devices themselves. Gobby describes a delivery catheter for use in artificial insemination. West describes an epidural needle used to penetrate tissue. Traditional artificial insemination does not involve needles or sharpened catheters as penetrating tissue is not an objective of such procedure, as clearly evidenced by Gobby. Thus, one of skill in the art would not consider needle technology compatible for purposes of facilitating a delivery process for artificial insemination.

It is also noted that secondary bevel 36 of West provides not only greater sharpness than prior art epidural needles but also an adequate degree of blunting to prevent inadvertent damage to dura matter. West therefore teaches that its end is both sharp and blunt. Even if it were to be assumed that Gobby might desire to penetrate uterine tissue, the blunted aspect of the needle end taught by West could disrupt the epithelial lining with bleeding and increase an inflammatory response that would disrupt the fertilization process.

Claims 1-18 are not obvious over the cited references because there is no apparent reason to combine the needle tip of West with the insemination catheter of Gobby in the fashion set forth in the pending claims. Applicant respectfully requests that the Patent Office withdraw the rejection to claims 1-18 under 35 U.S.C. §103(a).

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated:

12/17/08

William V Babbitt

William Thomas Babbitt, Reg. No. 39,591

1279 Oakmead Parkway
Sunnyvale, California 94085-4040
Telephone (310) 207-3800
Facsimile (408) 720-8383

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below to the United States Patent and Trademark Office.

Nedy Calderon
Nedy Calderon

12/17/08

Date